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PATENT
Attorney Docket No.: 15270J-004764US
Client Ref. No.: 209-US-CIP8BC4

Assistant Commissioner for Patents
Washington, D.C. 20231

On January 2, 2003

TOWNSEND and TOWNSEND and CREW LLP

By: Rosmarie L. Gelli

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

DALE B. SCHENK et al.

Application No.: 09/724,551

Filed: November 28, 2000

For: PREVENTION AND TREATMENT
OF AMYLOIDOGENIC DISEASE

Examiner: Sharon L. Turner

Art Unit: 1647

AMENDMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

This paper is submitted in response to the Restriction/Election of Species Requirement mailed July 2, 2002. A petition to extend the time to respond for five months, from July 2, 2002 to January 2, 2003 is submitted herewith. Please amend the above-identified application as follows:

Applicant elects Group III, claims 47, 67-68. Applicants elects the following species: 1C, humanized antibodies; 2B, monoclonal antibodies; and, 3B, IgG2 antibodies. Claim 60 recites "administering to the patient an antibody that specifically binds to an epitope within amino acids 1-10 of A β ." Applicants respectfully point out that an antibody that specifically binds to an epitope within amino acids 1-10 of A β is not included in the species 4A-H (see ¶8 of the Restriction/Election of Species Requirement). Applicant provisionally elects a species of antibody that specifically binds to an epitope within amino acids 1-10 of A β .

Claims 47, and 67-68 read on species 1C, humanized antibodies. Claims 47, and 67-68 on species 2B, monoclonal antibodies. Claims 47, and 67-68 read on species 3B, IgG2 antibodies. Claims 47, and 67-68 read on the provisionally elected species.

The election of species requirement directed to a species of antibody that specifically binds to an epitope within A β is respectfully traversed on the basis that although the designated species may be patentably distinct they are not mutually exclusive. MPEP 806.04(f) specifies that "[c]laims to be restricted to different species must be mutually exclusive." Here, it is noted that the claims specify that an antibody binds to a particular species of A β but do not in general require that the antibody be raised against the same species of A β to which it binds. Therefore, antibodies that bind to A β 1-10 (as recited claim 60) include antibodies that bind to A β 4-10, for example, as recited in claim 61 or antibodies that bind to A β 8-10, as recited in claim 62. Because the election of species requirement requires election between nonmutually exclusive species, it is submitted that it should be withdrawn.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,



Rosemarie L. Celli
Reg. No. 42,397

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834
Tel: 650-326-2400
Fax: 650-326-2422
RLC:lah
PA 3273152 v1